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April 3, 2012

Honorable Judge Nina Gershon
United States District Court Judge
Eastern District of New York
225 Cadman Plaza
Brooklyn, New York 11201
VIA ECF and OVERNIGHT COURIER

RE: SENTENCING MEMORANDUM
United States v. Numan Maflahi
03 CR 412

Dear Judge Gershon,

As you are aware, our offices represent the above captioned individual.

Numan Maflahi is scheduled to be sentenced by the Court for a violation of the terms and conditions of his supervised release on April 23, 2012 at 3:00 PM.

We have now had adequate opportunity to review the Government's 27 March 2012 sentencing memorandum ("Government Memo") and are compelled to briefly respond to same.

As an initial matter, the Government's submission - filed just hours before Mr. Maflahi's sentencing of same date and in gross defiance of the Court's Scheduling Order - represented a transparent 11th hour endeavor to inflame the Court based on certain omissions of material fact and material misrepresentations of fact.

More specifically, the Government dismissed Mr. Maflahi's familial responsibilities by propounding there is purportedly "*nothing in the* *defendant's filing to suggest that the defendant's incarceration will impress hardships on his family that are significantly different from those*

experienced by the families of hundreds or even thousands of other prisoners currently incarcerated in the federal system" (Government Memo Page 3) notwithstanding his Sentencing Memorandum and the Probation Report confirming Mr. Maflahi has ten (10) children residing in his home - four daughters (ages 2, 10, 11 and 12) as well as six sons (ages 7, 8, 14, twin 17's and 20).

Inasmuch as American families average two children - 2.013 to be exact - we are supremely confident that there are not "*hundreds or even thousands*" of inmates with family circumstances analogous to Mr. Maflahi's. In this regard, according to the 2007 U.S. Census, only 1 out of every 200 households consisted of seven or more people. As detailed in our prior submission, the Maflahi home consists of twelve (12) persons and Mr. Maflahi's role as patriarch of the family is crucial.

Moreover, the Government's submission characterizes the defendant as having been "*found in possession of a large quantity of cigarettes whose packing contained fraudulent tax stamps*" (Government Memo Page 2) despite the record reflecting that Mr. Maflahi was in possession of one (1) carton of Newport cigarettes that actually contained a fraudulent tax stamp.

Of final relevance, conspicuously absent from the Government's submission is any reference to the fact that Mr. Maflahi has now remitted the entire principal amount of his fine to the United States of America – thereby eliminating a central point of contention between the Department of Probation and himself in the process.

As we trust the Court is aware, Mr. Maflahi was previously sentenced to 18 U.S.C. §1001(a)(2)'s statutory maximum of sixty (60) months incarceration in February 2004. He has since been subject to forty one (41) months of intensive Government oversight by way of his supervised release – scrutiny which continues as of the date of this correspondence.

Notwithstanding this fact, the only offense Mr. Maflahi pled guilty to on January 25, 2012 was Charge 1 of his Violation of Supervised Release

Petition[1] - a Grade C violation - in full and final satisfaction of any pending issues related to his supervised release.

The Government's submission seeks to accomplish an end-run around the fact that Grade C violations are the lowest level violation established by the U.S. Sentencing Commission by disingenuously suggesting that the Court pay undue attention to allegations within Probation's Petition which Mr. Maflahi has not pled guilty to.

Indeed, the Government's sentencing recommendation of a 3-9 month custodial term of imprisonment plus 30 additional months of supervised release exceeds the operative policy statement inasmuch as the Commission only recommends supervised release be dispensed in connection with sentences that substitute community confinement or home detention for actual incarceration [see U.S.S.G. § 7B1.3(c)(2)].

For the forgoing reasons, we reiterate our request that this Court impose a sentence of one (1) day confinement and three (3) months home detention to be followed by three (3) months of supervised release.

The Defense submits that such a sentence would not only be consistent with the policies of the Sentencing Commission, it would afford Mr. Maflahi the ongoing privilege of continuing to support his wife and ten children.

We thank you for your continued consideration in this matter.

Respectfully Submitted,

George Stavropoulos, Esq.

cc: A.U.S.A. Sean Flynn, Esq. - VIA CM/ECF

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[1] In doing so, Mr. Maflahi confirmed his prior plea of guilty on January 24, 2012 before the Criminal Court of the City of New York to New York State Penal Law §170.20 (Criminal Possession of a Forged Instrument in the Third Degree – a Class A Misdemeanor).